

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

ALFRED DAVIS HICKS, #34132

PETITIONER

VERSUS

CIVIL ACTION NO. 4:08-cv-58-TSL-LRA

**RON KING, Superintendent of SMCI; and
CHRISTOPHER EPPS, Commissioner of MDOC**

RESPONDENTS

ORDER

This matter comes before this Court, sua sponte, for consideration of the transfer of this cause. The Petitioner, an inmate currently incarcerated in the South Mississippi Correctional Institute, Leakesville, Mississippi, filed this request for habeas corpus relief pursuant to 28 U.S.C. § 2254. Petitioner states that on July 5, 2001, his probation was revoked for a charge of sale of a controlled substance by the Circuit Court of Clarke County, Mississippi and he was sentenced to serve 18 years in the custody of the Mississippi Department of Corrections.

The Petitioner previously filed for habeas relief in this Court challenging this same conviction, probation revocation and resulting sentence of 18 years, in civil action number 4:04-cv-84-TSL-JCS. On August 14, 2006, this Court entered a Final Judgment which dismissed the action, with prejudice.

A petitioner who is filing a second or successive motion for habeas relief must first apply to the appropriate court of appeals for an order authorizing the district court to consider the successive motion. 28 U.S.C. § 2244(b)(3)(A). The Petitioner has failed to submit any documentation demonstrating that he has obtained the required authorization from the United States Court of Appeals for the Fifth Circuit. Therefore, this Court has determined that in the interest of justice, pursuant to 28 U.S.C. § 1631, this cause should be transferred to the United

States Court of Appeals for the Fifth Circuit for a determination whether this successive or second petition should be allowed. See In Re Epps, 127 F.3d 364 (5th Cir. 1997). Accordingly, it is hereby,

ORDERED that this petition for habeas corpus relief be, and the same hereby is, transferred to the United States Court of Appeals for the Fifth Circuit.

IT IS FURTHER ORDERED that the Clerk of Court is directed to close this case pending the decision of the United States Court of Appeals for the Fifth Circuit.

SO ORDERED, this the 12th day of August, 2008.

/s/Tom S. Lee

UNITED STATES DISTRICT JUDGE